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IV2347095

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

INVESTIGATIVE SUMMARY
IAB#: IV2347095

Unit: Men's Central Jail

Subject: **BAILEY, MARK** [redacted]

Date: Between 2011 and 2013

Time: Various

Location: [redacted]

SYNOPSIS

This investigation is the result of a telephonic complaint (Watch Commander's Service Comment Report-WCSCR), which began as a potential civil matter between Subject Bailey and a women (Complainant/Witness) with whom he had a past romantic relationship with. During the course of the initial complaint investigation, it was alleged by the complainant that illicit pictures of a sexual nature were sent to her phone via Subject Bailey's County cell phone. It was also alleged that illicit sexual activity between Subject Bailey and the Complainant, took place in his assigned County vehicle.

Based upon these allegations, an administrative investigation was initiated.

CASE SUMMARY

On October 22, 2013, Ms. [redacted] contacted the Los Angeles County Sheriff's Department Headquarters' Bureau to submit a complaint. A Watch Commander Service Comment Report (WCSCR) was completed by Deputy Mark Poe and forwarded to Men's Central Jail which, at the time, was the current work location for Subject Bailey. In the initial WCSCR complaint, Ms. [redacted] stated that Subject Bailey had borrowed five thousand ($5,000.00) dollars from her and stated he wanted to marry her. She later found out that he already was [redacted] and had been [redacted] Subject Bailey had not returned the money. The WCSCR was assigned to Men's Central Jail Lieutenant Tracy Stewart for investigation.

Lieutenant Stewart contacted Ms. [redacted] on November 20, 2013. The interview was telephonic in nature and captured on audio recording. Lieutenant Stewart summarized her investigation in a memorandum dated November 27, 2013, addressed to Captain Daniel Dyer, Unit Commander of Men's Central Jail (Refer to **Exhibit A** and **Audio CD #1** included in this case).

During her investigation, Lieutenant Stewart determined that the initial complaint by Ms. [redacted] was apparently a civil matter over money borrowed between Subject Bailey and Ms. [redacted] Lieutenant Stewart asked Ms. [redacted] if there was anything further she wanted to add to the details of her investigation. Ms. [redacted] then stated that she and Subject Bailey had sex twice in the back seat of two separate undercover County vehicles assigned to Subject Bailey. She further added that one of the cars, the black Impala, had a scratch on the side as if someone had hit the car. She said that Subject Bailey told her that it had been struck while parked in the parking lot of Pico Rivera Sheriff's Station. She told Lieutenant Stewart that there were no witnesses to the incidents which occurred in the cars, nor did she tell anyone about the sexual encounters. A collision report was completed by Subject Bailey and repairs were made to the vehicle in September of 2013. (Refer to **Exhibit B**).

> **IAB Note:** The 2007 black Impala, License [redacted] was the only vehicle Investigators were able to identify. The other vehicle that was used by Subject Bailey, and described by Ms. [redacted] was not found.

Ms. [redacted] further related that Subject Bailey used his County phone [redacted] to send her naked pictures of himself.

Lieutenant Stewart concluded her memorandum with a recommendation that, due to the nature of the complaint and its complexity, an Internal Affairs Bureau (IAB) investigation should be initiated and handled by IAB.

On December 13, 2013, IAB investigators towed the Chevrolet Impala that was assigned to Subject Bailey, from the Operation Safe Streets (OSS) offices to the Hertzberg-Davis Forensic Science Center (Sheriff's Crime Lab) for examination (Refer to **Exhibit C**). Forensic personnel discovered several stained areas in the rear carpet and rear seat area which had "proteins" commonly associated with semen. These areas were cut out of the carpet and held as evidence if needed for possible future DNA investigation/comparison. Crime Lab examiners stated in their report, that without a comparable DNA sample to test against the carpet pieces, no positive identification or match could be made (Refer to **Exhibit D** and **CD's #'s 2** and **3** containing digital pictures).

The telephone that was issued and utilized by Subject Bailey during his assignment at Operation Safe Streets (OSS-Pico Rivera Station area) was obtained by IAB investigators from the Pico Rivera Operations office. It was then taken to the Sheriff's Department's Hi-Tech Crimes unit for examination. Personnel at Hi-Tech Crimes examined the phone and said that it had been "wiped" prior to its reassignment after Subject Bailey was transferred from OSS to Men's Central Jail on July 21, 2013 (Refer to **Exhibit E** and **CD #4**).

> **IAB Note:** Upon reassignment of Departmental phones, data and messages are erased from the memory or "wiped" clean. The information on the phone is not recoverable after it has been erased. Subject Bailey's phone [redacted] had been reassigned several months earlier since he had been transferred from OSS.

Ms. [redacted] was contacted by IAB investigators and she agreed to provide an interview. Prior to the interview Ms [redacted] also agreed to allow the data and images on her personal iPhone [redacted] to be downloaded. Arrangements were made to have Sheriff's Department

personnel from the Hi-Tech Crimes Unit, extract the data from her phone. She had saved most of the pictures, messages and call history, both sent and received, from Subject Bailey. She did add that there were several images, videos and records, received and sent, from Subject Bailey's personal phone which are not included as part of this case. The Hi-Tech Crimes investigators obtained all information from her iPhone and thus, much of the information is of a personal nature and not pertinent to this investigation. Ms. [redacted] signed a release/waiver for this information (refer to **Exhibit F** and **CD #5**).

Ms. [redacted] said the relationship with Subject Bailey ended in June of 2013. Subject Bailey stopped returning calls and texts and, as she explained, "Simply disappeared from my life." Ms. [redacted] stated Subject Bailey has never returned the money he borrowed.

WITNESS INTERVIEW

Witness [redacted]

Witness [redacted] was interviewed by Sergeant Jeffrey Smith and Sergeant Sonja Bracken of the Internal Affairs Bureau on February 27, 2014. The interview was conducted at her residence, [redacted], in the [redacted] Ms. [redacted] is the [redacted] for the [redacted] The interview was digitally audio recorded.

Ms. [redacted] stated she met Subject Bailey in June of 2011 while seeking law enforcement assistance from deputies at Pico Rivera Sheriff's Station regarding graffiti abatement and gang related problems (NFD). At the time she was the apartment manager for the [redacted].

IAB Note: [redacted] are located in the Los Angeles County area of Whittier. This area is within the law enforcement jurisdiction serviced by the Pico Rivera Sheriff's Station and OSS personnel assigned to Pico Rivera station.

She said Subject Bailey helped her with her gang-related problems and informed her that she could contact him at any time if she needed further assistance. Subject Bailey gave her his County cell phone number. She stated she called him at one point and left a message related to the continuing gang-related situation at her [redacted] She further related that she began to receive texts from Subject Bailey on October 1, 2011. They continued to text each other for a couple months in a casual and friendly way (other than law enforcement related). In December of 2011, they began a dating and sexual relationship, texting each other frequently throughout the day. She stated that the relationship and text messaging was consensual.

She said that just prior to their dating relationship Subject Bailey sent her a text message with a sexually explicit picture of himself (NFD). Ms. [redacted] said she was initially shocked by the picture but did not take offense to it. When asked, she related that she sent him similar pictures in return while they were dating. During their relationship and on Christmas Day, December 25th, 2012, Subject Bailey sent her a sexually explicit picture from his County phone (Refer to **Exhibit G** and **CD #6**).

Ms. [redacted] explained that in approximately June of 2012, Subject Bailey asked to borrow some money. Initially, he borrowed five hundred ($500.00) dollars and then a few months later he

borrowed five thousand ($5,000.00) dollars. Ms. [redacted] said that Subject Bailey told her he would pay her back the money he borrowed but he never did. She added that it did not bother her though because for the next year or so, the relationship was good between the two of them. Ms. [redacted] further related that during this time, Subject Bailey was living with her for periods of time at her [redacted]

Ms. [redacted] said that on October 31st, 2012, an unknown person texted her and told her that Subject Bailey was [redacted] and that she should be careful (NFD). When she asked Subject Bailey about the information he stated he had been [redacted] She believed what he told her and did not make issue of it. She said that she and Subject Bailey would talk about getting married and moving to [redacted] She said she had no reason not to trust or believe him.

Ms. [redacted] said that in June of 2013, Subject Bailey simply disappeared from her life. He would not return phone calls or text messages. She attempted to locate him at Pico Rivera Sheriff's Station and it was during this process that she learned he was, and had been, [redacted] She continued to attempt to speak with him by leaving voice and text messages on his County phone but he did not respond.

Subject Bailey finally sent her a text message stating he was very upset and depressed regarding the death of his friend and partner of thirty years and could not continue a relationship with her.

> **IAB Note:** Sergeant Steve Spackman passed away on June 4, 2013. Sergeant Spackman was assigned to Major Crimes Bureau and had been on the Sheriff's Department since January 12, 1983 (Refer to **Exhibit H**).

When asked about sexual activity in the County car that Subject Bailey was assigned and drove as part of his official duties, Ms. [redacted] said they had sex in the front seat of the car. She added that Subject Bailey reclined the front driver's seat back. She further stated that this occurred at the [redacted] in Whittier while she lived there. She said this occurred sometime in September of 2012 and took place in the black Chevrolet Impala that was assigned to him. She described the car as having scratches on the rear fender and blue and red lights police lights attached to the passenger-side visor (Refer to **Exhibit B**).

> **IAB Note:** The Crime Lab performed a complete and thorough examination of the entire interior area of the black Impala (Refer to **Exhibit D**).

Ms. [redacted] said they had sex in another County vehicle, similar to a Crown Victoria, in the Spring of 2012, in the same [redacted] parking lot area (NFD). These were the only two times they had sex in his County car(s).

> **IAB Note:** During the WCSCR investigation, Ms. Orbach told Lieutenant Tracy Stewart that she and Subject Bailey had sex in the back seat of his County car (Refer to **Exhibit A; Page 2, Paragraph 7**).

Ms. [redacted] said she would ride in the County car with Subject Bailey often as they went to dinner and other local places. She said that many times Subject Bailey would have a large coffee cup in the car with him that contained alcohol. When asked how she knew this, she stated she could smell it in the cup and on his breath. She added that he always drank Jack Daniels whiskey.

Ms. [redacted] said she last heard from Subject Bailey via text message he sent her on September 28, 2013. In the message he apologizes for "everything I've done" and reiterates the circumstances involving the death of his best friend (Sergeant Steve Spackman), the difficulties with his job, depression and stress, along with intentions of retiring in 2014. He stated he never intended not to repay the money he owed her and wanted her bank account number so he could transfer the money back. He asked her to help him by not calling or texting him anymore and to understand.

She replied to him by telling him that she was pregnant. She was told she was pregnant in July of 2013. She said the last time they had sex was in late May of 2013. While on vacation in Mexico on August 28, 2013, she had a miscarriage. Her pregnancy was the reason she was attempting to contact him in July of 2013.

Ms. [redacted] gave Subject Bailey her bank account information however he never transferred any money to her account.

She called Sheriff's Headquarters Bureau to initiate the complaint against Subject Bailey. She said she felt compelled to file the complaint because of his double-life carried out with dishonesty and untruthfulness as a law enforcement officer.

Ms. [redacted] explained that she began civil court proceedings in an attempt to recover her money from Subject Bailey. Ms. [redacted] stated Subject Bailey did not show up to Norwalk Superior Court on December 30, 2013 for the civil proceeding.

For further information and precise wording, refer to the verbatim transcripts of the interview included with this case.

SUBJECT INTERVIEW

Due to a work-related injury and current medical condition, with written excuse by his doctor as, "Unable to interview," Subject Bailey did not provide an interview for this investigation (Refer to **Exhibit I**).

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

Date: March 19, 2015

File No: IAB IV2347095

DISPOSITION SHEET

FROM: JOSEPH S. HARTSHORNE, A/CHIEF
HOMELAND SECURITY DIVISION

TO: DONNIE L. MAULDIN, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **MARK BAILEY #[redacted]**
SERGEANT
OPERATION SAFE STREETS
HOMELAND DIVISION

Upon consideration of the facts developed in this investigation, I have determined Subject Bailey be **DISCHARGED** from his position as a Sergeant for the reasons set forth in the attached documentation. This decision may be reconsidered based on the employee's response.

Joseph S. Hartshorne, A/Chief — Date: 03-24-2015

CASE REVIEWED BY

Richard J. Barrantes, Assistant Sheriff — Date: 3-24-15

Michael J. Rothans, Assistant Sheriff — Date: 3/24/15

Neal Tyler, Executive Officer — Date: 3/24/15

Jim McDonnell, Sheriff — Date: 3-27-15

The evidence in this investigation **supports** the following charges:

1. That in violation of Manual of Policy and Procedures Section 3-01/100.45 Use of Communications Equipment, and/or Section 3-07/210.05 Permissible Use, Subject Bailey failed to maintain a level of conduct consistent with the highest standards of the law enforcement profession when he used his county issued cellular telephone [redacted] in an inappropriate, unauthorized and sexually explicit manner, on matters not related to Department business; including, but not limited to the following, and as evidenced by:

    a. On or about December 25, 2012, Subject Bailey sent a sexually explicit image that depicted his genitalia to Ms. [redacted] bringing discredit to himself and/or to the Department; and/or,

    b. From approximately January 2012 to October 2013, Subject Bailey sent sexually explicit text messages to Ms. [redacted] on numerous occasions, bringing discredit to himself and/or to the Department; and/or,

    c. From approximately January 2012 to October 2013, Subject Bailey sent in excess of 4,000 personal text messages to Ms. [redacted] from his county cell phone, all of which were not Department-related matters, and not related to Department business.

2. That in violation of Manual of Policy and Procedures Section 3-01/040.05 Financial Obligation, in approximately April 2012, Subject Bailey borrowed $500 from Ms. [redacted] and in approximately May 2012, Subject Bailey borrowed $5,000 from Ms. [redacted] and failed to promptly pay her back, resulting in a judgment against him on December 30, 2013. He has failed to promptly pay the judgment.

3. That, in violation of Manual of Policy and Procedures Sections 3-01/000.10, Professional Conduct; and/or 3-01/030.10 Obedience to Laws, Regulations and Orders (as it pertains to Operations Safe

Streets Bureau Unit Order 2005-12, Use of County Vehicle and Maintenance) 3-01/030.05, General Behavior; and/or 3-01/090.05, Use of County Vehicles; and/or 3-01/90.15, Unauthorized Persons in County Vehicles, between January 2012 through October 2013, Subject Bailey failed to conform to the unit orders of the Operation Safe Streets Bureau and Department standards when he used his assigned county vehicle (SD6467), and allowed an unauthorized person, [redacted] to ride in a county vehicle for non-departmental reasons. Subject Bailey's conduct was not in conformance with the Department's Core Values as he failed to act honorably and with integrity and caused undue embarrassment to the Department and/or damaged the reputation of the Department as evidenced by, but not limited to:

a. using his assigned county vehicle to drive [redacted] to personal outings; and/or,

b. using his assigned county vehicle on two occasions in 2012, to engage in sexual activity and/or intercourse with [redacted]

CASE SUMMARY:

On October 22, 2013 Complainant Ms. [redacted] contacted the LASD Headquarters Bureau to file a complaint against Sergeant Mark Bailey with whom she had had a romantic relationship. During the time of this complaint and the alleged policy violations Sergeant Bailey had been assigned to Operation Safe Streets Bureau. Sergeant Bailey, however, had been subsequently transferred to Custody Division/Men's Central Jail in July of 2013 as the result of an unrelated PDSA agreement with then Unit Commander Captain Robert Rifken.

While conducting the initial inquiry and during a follow-up interview between the Complainant and Men's Central Jail Lieutenant Tracy Stewart some of the information proved to be a civil matter between the Complainant and Sergeant Bailey. There were, however, several policy violations that surfaced indicating Sergeant Bailey had sent inappropriate and sexually illicit photographs to the complainant via his County cellular telephone, had sexual intercourse in his County assigned vehicle on at least two occasions, and had driven his County vehicle with the complainant inside, while under the influence of alcohol.

Based on the seriousness of the allegations and the complexity of the investigation the case was assigned to the Internal Affairs Bureau and Sergeant Jeff Smith for investigation on December 13, 2013.

In reviewing the initial interview with Lieutenant Stewart, and then during a more comprehensive interview with Internal Affairs Bureau, Complainant Ms. [redacted] indicated she met Sergeant Bailey in July 2011 at Pico Rivera Sheriff's Station when she went there to discuss a crime issue. Ms. [redacted] said she met Sergeant Bailey a second time later in 2011 after he arrived at the apartment complex where she both resided and managed to conduct legitimate gang related investigations in his capacity as a Sergeant assigned to Operation Safe Streets Bureau. In the weeks following Sergeant Bailey's investigation the two started a friendly relationship and then an intimate relationship, which began sometime around December 2011. The intimate relationship continued from December 2011 until June 2013, during which time Sergeant Bailey unexpectedly and suddenly stopped texting and communicating with the Complainant.

Ms. [redacted] filed the complaint because she believed that Sergeant Bailey was "not a trustful person," was drinking during work hours and drinking while driving his county assigned vehicle, was taking her prescription medications, and was leading a "double life" because she learned he was also married during their relationship.

In response to the specific allegations the investigation revealed that:

> Sergeant Bailey sent Ms. [redacted] a picture of his genitalia from his county issued cellular telephone on 12-25-12. During the investigation the photograph was recovered during a forensic audit and examination of the Complainants cellular telephone. The investigation clearly showed the picture came from Sergeant Bailey's County issued cellular telephone and was accompanied by a text message that read, "Merry Christmas Baby! With this comes my heart. Love you for being in my life!"
>
> Sergeant Bailey had sexual intercourse with the Complainant on two occasions inside his county assigned vehicles. The first occurrence was in a Ford Crown Victoria type vehicle, with an "Exempt" license plate, in April 2102. Based on the vague description that vehicle could not be located. The second occasion occurred inside a 2007 Chevrolet Impala, black in color, in September 2012. That vehicle, which had been issued to Sergeant Bailey during the time in question, was recovered at the direction of the Internal Affairs Bureau and a biological examination was conducted by the Sheriff's Scientific Services Bureau

– Biology Section. The examination of the interior of the vehicle was conducted by Senior Criminalist Tiffany Shew (#[redacted] using a variety of investigative techniques and specifically an alternate light source. During the investigation the exam indicated "four areas on the rear floor area tested positive for the possible presence of semen". One area was examined and confirmed the presence of semen. The samples were collected and held for the possibility of a later comparison.

On several occasions Complainant [redacted] indicated she and Sergeant Bailey would drive to dinner, the theatre, and to family relatives residences' in the County vehicle. Complainant [redacted] was able to articulate specific details about the vehicle and said often times Sergeant Bailey would be drinking from a cup which contained alcohol while they were together. When questioned about the content of the cups Sergeant Bailey drank from Ms. [redacted] said she knew it was "Jack Daniels" because she could "smell it" and she was familiar with what Sergeant Bailey would drink during their relationship.

During the investigation and interview Complainant [redacted] indicated Sergeant Bailey had ingested prescription medication issued to her, including Oxycodone and Vicodin, during their relationship. Ms. [redacted] said she had the prescription medication prescribed to her based on an existing medical condition and inferred Sergeant Bailey had taken some of the medication after he complained he had previously injured his knee. (This allegation could not be substantiated due to the lack of timely notification and the fact Sergeant Bailey was medically unavailable for an interview).

[redacted]

ASSESSMENT OF MITIGATING AND AGGRAVATING FACTORS

Severity of Infraction

Subject Bailey's behavior and decision making in this matter exposed the Department to liability and embarrassment. His actions undermined the foundation of the Department's Core Values and his behavior undercuts the public's confidence and/or feeling of trust with the Sheriff's Department and its sworn personnel.

Department members have a duty to conduct themselves both on and off-duty in a manner which demonstrates to the community a high degree of professionalism and integrity. Subject Bailey failed to do so in this matter. His actions demonstrated negligence, a dis-regard for policies and a self-serving disposition.

Intent, Truthfulness and Acceptance of Responsibility

Subject Bailey's investigation and interview provides the following:

[redacted]

The specific details provided by the complainant and her candidness during her interviews, coupled with the evidence gathered during the investigation leaves no doubt that Sergeant Bailey violated policy.

Degree of Culpability

Subject Bailey is solely responsible for this incident.

Past Performance and Disciplinary History

Subject Bailey received a 15 day suspension on August 13, 2004 for Performance to Standards, General Behavior, and Obedience to Laws, Regulations, and Orders.

Subject Bailey received a written reprimand on March 7, 2007 for Performance to Standards.

Subject Bailey received a 15 day suspension on December 1, 2009 for Obedience to Laws, Regulations, and Orders and for General Behavior.

Sergeant Bailey received a 10 day suspension on September 10, 2013 for Performance to Standards and subsequently entered into a PDSA agreement wherein he received a suspension and transfer to Custody Division.

Determination of Discipline:

Based on the foregoing assessment of mitigating and aggravating factors, the following is the level of discipline to be assessed, subject to revision upon receiving the Subject's response or grievance:

_✓_ Discharge

_____ Reduction in Rank

_____ Suspension with loss of pay and benefits for ____ Days

_____ Written Reprimand

_____ No discipline recommended